



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JUNE 24, 2008

PRESENT: Koepp-Baker, Davenport, Escobar, Lyle, Mueller, Tanda

ABSENT: None

LATE: Acevedo, who arrived and was seated on the dais at 7:09 p.m.

STAFF: Community Development Director (CDD) Molloy Previsich,
Senior Planner (SP) Linder, Senior Planner (SP) Tolentino,
and Minutes Clerk Johnson.

Chair Koepp-Baker called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Koepp-Baker opened, and then closed the public hearing, having noted that there were no persons present indicating a wish to address matters not appearing on the agenda.

MINUTES:

JUNE 10, 2008

COMMISSIONERS MUELLER/DAVENPORT MOTIONED TO APPROVE JUNE 10, 2008 MINUTES WITH THE FOLLOWING REVISIONS:

Page 2, bottom: ... if the applicant ~~agrees~~ **adheres**...

Page 4, paragraph 6: ... applicant ~~many~~ **may** not know...

Page 5, 1st bullet {near bottom}: • currently, if ~~restoring~~ **rescoring** must occur

Page 6, paragraph 1: corrected to read ~ ~~2008~~ and ~~27th~~

Page 8, paragraph 2: ~~signifance~~ **significance**

Page 10, paragraph 2, line 6: ...discussed ~~with~~ **when** the evaluation committee met...

Page 11, correct spelling **micro**

Page 7, paragraph 6: {add}urged **against**....

Page 11, paragraph 2: in an ~~R-2, and~~ R-1 7,000 sf neighborhood

Page 11, mid-page: {under Article III} **will rank the highest-scoring tied projects**

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Page 11, mid-page: {under Article II} Housing Types **Article II (add page 27) Open Space HOUSING TYPES [with corrections to table]**

~~Provides for 10% affordable units LOW / Median/MOD~~

~~~1.5 10 (retain with explanatory footnote to be added by staff~~

~~clarifying that~~

~~moderate applies to only lot size above 12,000 sf (emphasis) BMRs are deed restricted~~

~~ "re-include" the 10% low option, with the award to be 2 points

Page 12, paragraph 2: ...**INSTITUTING A REVISED REDUCED FEE SCHEDULE...**

Page 16, 2nd Davenport comment: {add} an exempt *classification*

Page 17, Commissioner Lyle final statement {add} *The City needs to zone additional R-4 lands.*

THE MOTION CARRIED (6-1) WITH THE FOLLOWING VOTE: AYES: KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: ACEVEDO.

PUBLIC HEARINGS:

1) UP-08-06: MADRONE- DEL MONACO SPECIALTY FOODS

The applicant , Del Monaco Specialty Foods, is requesting approval of a conditional use permit to operate an approximate 79,408-sf wholesale food processing facility in an existing 126,378-sf light industrial building located at 18675 Madrone Parkway in a PUD zoning district.

SP Tolentino presented the staff report noting that the applicant is proposing to relocate from San Jose an existing wholesale food processing facility. SP Tolentino explained the proposed location, and Conditional Use Permit (CUP) requirements / findings. SP Tolentino said that while this is not one of the specified uses permitted in the Madrone Business Park PUD, with the findings (of which she gave an overview), the use could be permitted at the location. SP Tolentino told of the staff visit to the location in San Jose. SP Tolentino provided the Commissioners with an overview of the project

- uses include food processing, warehousing, distribution, and general office
- products will include: soups & chowders; sauces, pesto & gravy; chilies & stews; puddings & other creamy desserts; flavored butters; filled pastas & gnocchi.
- hours of operation: 24/7 with owner discretionary closing for holidays or lulls in business operation
- 53 current employees; potential for 100 at the Morgan Hill location
- future mezzanine to be built: 16,500 sf
- 12 of the 16 loading docks will be for this facility per the agreement reached
- employees will carpool to location
- plan to close rear parking lot in evenings for security
- applicant reviewing equipment needs; {condition of approval: staff to review equipment placement}
- chain link black vinyl fencing to be installed per Madrone Business Park guidelines
- request for barbed wire on top of fencing [staff recommends *no*]
- if complaints of odors, must be resolved as specified in the resolution*

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Commissioner Acevedo arrived at 7:09 p.m. and was seated on the dais.

*Calling attention to the Conditions for the prepared Resolution, SP Tolentino explained the proposed modifications to A9 on page 4: complaints of odors resulting from food waste and/or inadequate waste pick-up must be resolved immediately. For odor complaints resulting from processing operations or mechanical systems, Planning will take the lead but may consult with a 3rd party to determine appropriate course of action.

Responding to Commissioner Tanda's question of production activities at the plant in San Jose, SP Tolentino explained:

- ◇ the produce and meat arrive at the plant preprocessed (vegetables peeled/diced; meat deboned/cut
- ◇ big vats for cooking were on-site
- ◇ food cooked and packaged

Commissioner Escobar clarified that while the hours of operation were listed as 24/7, the evening hours are for maintenance and cleaning.

Responding to a question from Commissioner Escobar, SP Tolentino explained the details of the fencing: gates at each end will remain open during the hours of business without affecting other businesses in the building. She also noted that there would be Knox locks for having the gates opened for emergency personnel.

Chair Koepp-Baker opened the public hearing.

The applicant, Vince Del Monaco, 1070 Commercial St. #4107, San Jose, President and CEO of Del Monaco Foods, explained the business operations:

- hours building will be occupied is generally 24/7
- staff is on site for cleaning in the evening hours
- want ability to do food processing as well in the evening hours
- gates locked evening, Knox locks in case of emergency for employees and fire/police
- processing is mainly soups and sauces, pestos, pastas, for wholesale, e.g., Whole Foods, other upscale grocery store
- meats delivered trimmed and processed-ready to cook; no garbage
- little waste from food processing

Commissioner Lyle asked about the volume of garbage, and if it was 'stockpiled'? Mr. Del Monaco said the garbage was emptied every day. He went on to tell the Commissioners he was looking at a new high tech method for decomposing the waste daily. "As you look at our current operation now," Mr. Del Monaco said, "we generate roughly 10 pounds of waste per day this new technique will reduce that amount."

Discussion ensued regarding the possibility of using the waste for electricity

(Commissioner Mueller told of a local company's work in that field). Mr. Del Monaco indicated interest in composting as well.

Commissioner Mueller asked about the planned mezzanine, with Mr. Del Monaco said it

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was for future expansion as the business volume increased.

Commissioner Davenport led discussion of the pre-process food containers and the resultant waste. Mr. Del Monaco explained the pre-process food was delivered in cardboard containers with some plastic linings. Commissioner Davenport observed – for the record – that some amount of garbage was generated in this manner. “I have my production manager looking into ‘taking care’ of the liners,” Mr. Del Monaco said.

Chair Koepp-Baker joined with Mr. Del Monaco in reiterating the practice of having a number of products available for partnering with grocery stores and restaurants “We are constantly growing our product line,” Mr. Del Monaco detailed.

Turning to potential increased traffic, Commissioner Lyle asked how many salespersons visited the site daily? Mr. Del Monaco stated that salespersons rarely visit the production plant, but that most business is conducted ‘mostly on line, by e-mail or telephone, and that results in very little traffic in and out’.

Responding to Commissioner Mueller’s question regarding potential noise impacts to adjacent tenants, Mr. Del Monaco said that currently the operation does not use the whole building at the San Jose location. Mr. Del Monaco said, “The large refrigeration units in the building are not an issue {noise} now, and there are neighboring businesses on either side. We will have the same equipment here.”

Commissioner Davenport asked about the applicant’s reaction to the recommendation by staff for the elimination of barbed wire on top of the chain link fence. Mr. Del Monaco said he had ‘big issues’ with safety at the current location, so the reaction here was to put in barbed wire fencing. “I imagine there will be less problems here,” Mr. Del Monaco said. “So currently, we are comfortable with going with the staff recommendation. If we experience theft issues, I will come back for a variance for protection. In the meantime, we are looking into other devices which could be used.”

Commissioners discussed:

- potential of having staff review/approve an alternative (reasonable solution) to the safety and security issues
- Mr. Del Monaco’s willingness to have a 3rd party come in to assist in reviewing odor complaints
- need for the applicant to talk to City police about safety and security issues

Brad Krouskup, developer of the Madrone Business Park, said he thought Del Monaco Specialty Foods will be real addition to the Park, as he commented on the visit he had made to the site in San Jose, when he observed both the processing operation and the cleaning. “However, the reason I’m here tonight: to reiterate - this is a Business Park, not and Industrial Park and we have real concern with the proposal for barbed wire or razor wire. We share the concern of an image the Madrone Business Park has worked to achieve.

Mr. Krouskup stated he was ok with staff reviewing/approving alternate fencing designs for safety and security reasons should the need arise. He went on to say that when he went to the plant in San Jose, the odors were virtually undetectable from outside the building. As to item A9 of the Exhibit, Mr. Krouskup said, “If the City looks at complaints as being

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valid and if the complaint is legitimate, we would support the modification of having staff work with a 3rd party for a solution.

David Schmidt, 450 West Santa Clara St., San Jose, said he wanted to clarify that there was only one additional tenant in the building. SP Tolentino clarified the names of the tenants the City has on record.

With no other persons in attendance indicating a wish to speak to the matter, the public hearing was closed.

Commissioner Mueller asked (for the Resolution):

- inclusion of modification to item **A9** to allow a third party to assist Staff in resolving odor complaint matters and to delete the last sentence defining the word 'excessive.'
- **A7** delete restriction of barbed and/or razor wire atop the chain link fencing and include provision allowing the community development director to approve an alternative fencing design should security issues arise.

Note: the above two items (A7 and A9 in Exhibit A) were included in the approved Resolution as Conditions of Approval.

NOTING THE IMMEDIATELY PRECEDING LIST OF MODIFICATIONS, COMMISSIONER MUELLER OFFERED THE RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE AN APPROXIMATE 79,408-SF WHOLESALE FOOD PROCESSING FACILITY WITH UP TO 16,500-SF OF MEZZANINE IN AN EXISTING BUILDING LOCATED AT 18675 MADRONE PARKWAY IN A PLANNED UNIT DEVELOPMENT ZONING DISTRICT, INCLUSIVE OF THE FINDINGS AND CONDITIONS SO NOTED. COMMISSIONER ESCOBAR SECONDED THE MOTION.

Commissioner Tanda clarified the ability of staff to bring in a 3rd party evaluator as warranted.

THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Mr. Del Monaco announced intention to phase out his current production over the next two years, and said he hopes to begin work in Morgan Hill after the first of next year.

2) ZAA-98-11: E. DUNNE-PUD ZONING FOR DUNNE & CONDIT/ SIMONSEN

The applicant is requesting to amend the Planned Development (PD) zoning for Area 2 of the City-initiated Dunne & Condit PDs (also known as Walnut Grove PD) to allow for a 56-ft tall freeway sign. Approval of the request would allow the applicant to increase the height of the existing freeway sign by six feet.

SP Tolentino gave the staff report, and told the Commissioners this request stems from the fact that there are no vacant panels remaining on the existing freeway sign for additional businesses.

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Commissioner Mueller spoke on the inclusion of Trader Joe's on the existing sign, saying that technically that business is outside area 2, but the management had applied for a Conditional Use Permit and received permission to put the sign up on the freeway sign.

SP Tolentino said the applicant is asking to raise this freeway sign (located on the west side of 101), which has a current maximum height of 50 feet to 56 {an additional 6 feet}. She called attention to the table on page 3 of the staff report where comparisons of existing shared use freeway sign could be viewed.

Commissioner Tanda asked if the Code limit of 50 feet created instances of applicants asking for exemptions as other signs were over 50 feet? "Is there a maximum height the signs can be? How did we determine 50 feet as the standard?" he asked. SP Tolentino explained that the difference in the 50 on the west side and 55 feet on the east side of the freeway is for visibility from the freeway. "The Code does not establish a maximum limit for exception requests," she said, as she explained sign heights by giving examples {one such is 80 feet (staff report)}. "The Commission looks at each on a case by case basis."

Chair Koepp-Baker opened the public hearing.

David DeRose, 3500 Tupelo Dr., Walnut Creek, told the Commissioners he was representing the DeRose Development Company, which owns a large parcel of land in the area as he used the map to illustrate where his properties are. Mr. DeRose said he supports the request, however he wishes to protect the interest of current and future tenants within the planned development so requests that the signage be limited to not allow signage for businesses further down Dunne Ave. Mr. DeRose also stated additional businesses may want to include signage on the freeway sign in the future.

Commissioner Acevedo commented that the area Mr. DeRose had identified as his property is halfway covered by the planned development. SP Tolentino said that Mr. DeRose was asking for the businesses specifically within area 2.

Sean Simonsen, 1503 Latigo Circle, Roswell, NM, asked for support for the request and passage of the resolution.

Commissioner Mueller observed that the Cochrane Common signs allowed cell phone towers on the signs and asked if that use would be considered here? Mr. Simonsen said, the cell companies had looked at the site, and were not interested at the location.

Commissioner Acevedo clarified the purpose of the sign in this PD, which he had originally thought could serve any business, had permission from the City to let Traders Joe's put a sign there. Commissioner Mueller reminded that Trader Joe's was not in area 2; they applied for and was granted a conditional use permit to include the business on the sign.

With no others present to address the matter, the public hearing was closed.

The Commissioners discussed:

Commissioner Tanda - any other requested modifications to the sign {only in area 2, as Trader Joe's currently is on the sign with a CUP as it is located outside the PD}; If the

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Commission were to restrict the freeway sign to allow only businesses located within area 2, then Trader Joe's would become a legal non-conforming sign

Commissioner Lyle - disagreement with what Mr. DeRose said as he thinks the 56-foot limit would be too high. "Signage can be added lower, not higher. There is perhaps a reason to be higher on the other side and the Commission has been ok to have height there. Here, we need to limit specifically to 210 sf of combined signage, by adding signage area at a lower level."

Commissioner Acevedo responded he could understand the rationale, but now the applicant was asking for the sign to be six feet higher. Commissioner Acevedo reminded that the applicant was not asking for consideration of lower placement on the sign. "The applicant paid for – and is expecting that the Commission will address – having the sign raised," Commissioner Acevedo said.

Considerable discussion ensued with Commissioner Lyle arguing for the lower signage, and saying, "There is advantage to put the lower signage into play now." Commissioner Tanda wondered why there would be advantage, with Commissioner Lyle saying, "At some point the taller sign becomes very unsightly." Commissioner Tanda questioned the 'lack of readability on the pole'. Commissioner Tanda also said he needs to understand the 210 being max. SP Tolentino explained, "280 sf is allowed; this request being for 210 sf."

Commissioner Escobar said, "Unless we are willing to say - as Commissioners – that 60-foot violates, we need to acknowledge that different businesses have needs that require different signage. This request is before us. I suggest we bring requests without prejudice."

Commissioner Lyle reminded that others have lesser area signs.

Commissioner Escobar suggested the need for prudent language for future use, and urged acceptance of the staff recommendation.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL TO AMEND ORDINANCE NO. 1488, N.S. TO ALLOW ONE, SHARED USE FREEWAY SIGN UP TO 56 FEET IN HEIGHT FOR THE AREA 2 PLANNED DEVELOPMENT LOCATED AT THE NORTHWEST CORNER OF E. DUNNE AVENUE AND HIGHWAY 101, AS RECOMMENDED BY STAFF, AND INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN. COMMISSIONER ACEVEDO SECONDED THE MOTION.

During discussion of the motion, Commissioner Tanda said he felt the Commission had set precedence with Trader Joe's in allowing addition of the sign. "But by this action, what precedence will be set here – what is special here?" he asked. "What is different? It seems by reading the staff report, any other owner can say, 'I need a higher sign'."

Commissioner Escobar countered, "What basis is there to reject this request? I think the need is to look at existing sites with the sign Code approved. We are trying to make a decision if this particular site - using the information given - establishes prudent ability for supporting the request.

Commissioner Tanda retorted, "When would you deny an exception? Why is 50 feet sacred? I don't understand why this one would not apply to the next request. I'm not sure

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why we could say ok here and deny something else.”

Commissioner Mueller said, “It depends on the circumstances.” He again referenced Cochrane Commons. “Here, at this location, there is need for more signage to support commercial development which is still evolving. So if we need better signage, we need to address how it is to be.”

Commissioner Lyle stated “There has been no testimony that there is a need to have to go higher. New signs could be mounted below the existing signs. ”

Commissioner Escobar remarked, “Part of this is resultant from another action: Trader Joe’s being given space on the sign. This request might not be in front of us, but we felt that business was close enough to the freeway to warrant action for the sign.

Chair Koepp-Baker called attention that request was to amend the PD to allow 55.5 (56) feet sign height.

Commissioner Acevedo said, “What we should ask: is that a reasonable request?”

Commissioner Tanda said that in further reading of the staff report the increased sign height would add two sign panels to advertise future businesses in the PD as well as off-site businesses with approval of a CUP. “It seems that if the sign was allowed for Trader Joe’s, it could be assumed that others would be added, too.”

Commissioner Acevedo provided background information regarding the recent Ordinance change allowing off-site businesses to place a panel on a freeway sign, which included study and hours of meetings, limiting who could apply for a conditional use permit for an off-site sign.

THE MOTION PASSED (4-3) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, MUELLER; NOES: DAVENPORT, LYLE, TANDA*; ABSTAIN: NONE; ABSENT: NONE.

***Commissioners Lyle and Tanda repeated objections raised during discussion, with Commissioner Davenport noting belief there was plenty of square footage below to add signage, and stating “The Ordinance is there for a reason.”**

3) POLICY DIRECTION REGARDING DEFINITION OF SENIOR HOUSING TYPES, STANDARDS & APPLICABILITY OF RDCS

Consideration and discussion of various senior housing types and the need to clarify Residential Development Control System (RDCS) applicability. Also, consideration of new zoning definitions for the various types of senior accommodations and direction on the appropriate locations for the various types of senior housing.

SP Linder presented the staff report, noting this item had been heard at the June 10, 2009 Planning Commission meeting, with consideration given to:

- three new zoning definitions
- amendment to four existing definitions *and*
- a proposed amendment to the RDCS exemption policy

SP Linder then provided an overview of the consensus reached by the Commissioners at

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that meeting:

- change all existing and proposed senior care definitions to age **55+**
- on-site managers units ok with full kitchens within congregate care and assisted living facilities at a ratio of about 1 dwelling unit per 50 congregate senior/assisted living units on the same lot of record
- RDCS ~~ set-a-side should be created for senior rental market rate housing

SP Linder noticed the revised definitions of:

- nursing home/convalescent hospital
- congregate care for the elderly/assisted living facility
- residential care facility – small
- residential care facility – large
- half kitchens

which were discussed with the Commissioners.

SP Linder also advised that staff was asked to have the four example projects reported at the June 10 meeting categorized in accordance with the proposed definitions and as a consequence, had developed the table on page 3 of the staff report.

Turning to the need to further clarify the matter of the exemption policy for (potential) recommendation of change to RDCS requirements, SP Linder called attention to the statement on page 4 of the staff report, as she referenced ‘What is in/out of RDCS’. Coupled with a (redlined) handout distributed during the meeting for fine tuning changed RDCS policies, this was illustrated as a basis for recommended change for the RDCS requirements for Senior Housing.

Commissioners discussed the matter with staff, including the following:

- × (page 4; clarifications in highlighted text: 2nd to last sentence ~~FULL~~ transportation services. Delete the word “full”, as that is hard to define, and instead indicate that transportation services must be provided by the facility.
- × need to cover issue of managers, e.g., number of managers units that would be exempted from RDCS even with full kitchens. Two units was supportable.
- × ‘counting’ (for the Housing Element requirements): Assisted units count as “group quarters” rather than dwelling units, but the population from the facilities does count toward the city’s total population and the RDCS population cap.

Chair Koepp-Baker opened the public hearing.

*Disclosure: Commissioners Davenport, Escobar, Lyle, and Mueller had received e-mails from the representatives of Berg & Berg. The remaining Commissioners and staff had **not** received the e-mails, copies of which were subsequently circulated to all Commissioners and staff in attendance.*

Mark Lowen, Curry Architecture LLL, 471 High St. SE, Salem, OR told the Commissioners he was present to represent Colson & Colson. Mr. Lowen said the definition of congregate care as developed by staff would work well as his company envisioned the services. Mr. Lowen detailed how he appreciated the Commission for being proactive in preparing for senior housing needs. Turning to the definition from RDCS (item 6/staff handout) Mr. Lowen urged ‘some provision for co-managers living quarters’.

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Mr. Lowen spoke about provision of transportation for residents, and explained that the 300 facilities his company has in the US have 'on-call' transportation for medical and/or special events within reason. He stated that 15% (+/-) residents own private vehicles, but don't end up using them very much. "Our parent company, Holiday, uses a model by coming into a community to determine the amount of income available to seniors. We are not subsidized by the Government but set our rents with an eye to retirement and Social Security incomes," Mr. Lowen explained. Concluding, Mr. Lowen said, "Staff has done a nice job with the revised *congregate care* definition."

Dennis Kennedy, 1942 Alta Mesa Ct., advised he continues to assist the Holiday Company engaged in the Colson project as they work through the process of permitting and building the project. "Mark (Lowen) covered our position very well and staff has done an excellent job preparing the Ordinance changes. I'm in favor of the items staff has presented," Mr. Kennedy said.

Gary Hansen, 1650m Technology Dr., told the Commissioners he is associated with the Altera/Fountain Glen project and thanked staff for working to address senior housing and RDCS applicability. Mr. Hansen had presented a modified definition for Independent Active Adult Living which was included in the distributed packets. Mr. Hansen explained the proposed modification during discussion with the Commissioners. Suggesting that at least three areas

- nursing home
- congregate care for the elderly/assisted living facility
- residential care facility - small

all qualify to be exempt from RDCS; and he asked for adoption of a definition he had proposed for a more active senior, but who also receives services, and should also be exempt from the RDCS. "This other type of active, more independent senior housing targets younger residents than the assisted living facilities who still want to retain a higher level of independence, and don't need the extent of services and care as the residents of assisted living." The units would be all rentals in this type of housing, therefore the property owner would have complete control of what is placed in the units, e.g., appliances." Mr. Hansen listed several factors which would show benefit from his proposal:

- } age dependency (outlook of residents)
- } ability to transfer into other units/levels of care
- } ability to stay nearby through all stages of care – stay in area for mental peace of mind and security/stability
- } greater flexibility of care

Mr. Hansen concluded by asking the Commissioners to consider an exemption for Active Independent Senior Housing (per his suggested definition which restricts to rental units and requires some level of services) from RDCS. "The modifications suggested will prove beneficial to the senior population. The citizens are faced with not enough housing and assistance is needed for solving problems," he said.

John Alstrom, 320 Commerce, #100; Irvine, told the Commissioners he is Vice President of Fountain Glen, which has proposed the Altera project, and said Mr. Hansen had covered the points the company felt needed to be made at the meeting.

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Myron Crawford, 10030 Bandley Dr., Cupertino, was present to represent Berg & Berg. Mr. Crawford distributed copies of the e-mail which had been sent to Commissioners (*see disclosure*).

With no others present to address the matter, Chair Koepp-Baker closed the public hearing.

SP Linder reminded that the purpose of the discussion at this meeting was formulate a recommendation to the City Council and asked the Commissioners to consider the items staff had prepared:

- new zoning definition: Congregate Care for the Elderly/Assisted Living Facility (red-lined version distributed at the meeting), with an additional modification to be included regarding co-managers quarters with kitchens
- other definitions as outlined in the staff report for
 - nursing home/convalescent hospital
 - residential care facility – small
 - residential care facility – large
 - half kitchens

Commissioner Lyle asked if staff was recommending the proposed language supplied by Mr. Hansen? SP Linder replied, “No, Mr. Hansen’s proposed language describes independent senior living units, with an emphasis on rentals being developed in conjunction with assisted living units. Staff understood the Commission’s June 10th direction was to NOT exempt these types of units”.

CDD Molloy Previsich and Commissioner Acevedo noted that having a definition of active independent living facilities could be helpful if inquiries were received regarding such facilities in the future, if only to make it clear the distinctions between the two types and illustrate why one type was exempt and the other not exempt.

Commissioner Lyle and SP Linder said they would not favor moving forward with the modified definition Mr. Hansen had proposed. CDD Molloy Previsich pointed out that the proposed RDCS exemption policy was covered on page 5 of the staff report, to clarify that active independent senior housing would be subject to RDCS.

Chair Koepp-Baker remarked that what staff has been looking at and suggesting was actually ‘graduated care’.

Commissioner Mueller called attention to the proposed RDCS exemption policy. CDD Molloy Previsich pointed out that “If the majority of the commissioners think we need to be clearer about what independent/active adult living is, we probably need language less detailed than has been offered by Mr. Hansen, but which would distinguish such from the congregate care for the elderly/assisted living unit definition.” Commissioner Mueller said, “It might be good if we want to do a set aside, then we would have a definition to work from.”

Commissioner Acevedo observed, “Most of the definitions are for single-family and multi-family units. This is different and could be identified as a different kind of unit.”

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CDD Molloy Previsich suggested expanding the definition of senior citizen housing in Code Section 18.04.393 with staff to provide language to address independent, active senior housing as part of that existing definition. The definition would make clear that these are dwelling units, and the housing type is subject to RDCS. **The Commissioners – by consensus – agreed to the action recommended.**

Attention was directed to #6 (revised redlined handout) RDCS Exemption Policy Amendment, with the exemptions and modifications noted as agreed in the discussions; *and* #7 Commercial Exemptions (page 5). During discussion, Commissioners Escobar and Mueller suggested modifying the last sentence (staff handout) of Congregate Care for the Elderly/Assisted Living Facility to insert as a separate “Note” paragraph just above item 7/page 5. He explained that it would link part of the services provided in the congregate care setting to be clearly distinguished.

Turing attention to the attachment to the June 10th staff report, SP Linder explained the zoning districts chart of permitted and conditional uses for various senior housing types within various zoning districts. The chart is on page 4 of the report. Commissioners discussed the various used and zoning districts with staff, and agreed to the following revisions to the table:

R-2 zoning; Nursing/Convalescent homes: delete words “if < 15 beds”

CC-R zoning; Nursing/Convalescent homes: Add as a Conditional Use

CG zoning; Residential Congregate Care Facility~large >6: leave as not allowed

Commissioner Mueller divulged that he had continuing worries about the identified uses in various zoning districts (page 4/staff report). Commissioner Mueller said, “The Housing Element can be changed to identify additional areas type of senior housing. The proposal of Berg & Berg using large amount of industrial land is not good site for senior housing.” Commissioner Lyle indicated strong agreement.

COMMISSIONER MUELLER MOTIONED TO FORWARDED TO THE CITY COUNCIL STAFF RECOMMENDATIONS FOR DEFINITIONS INCLUSIVE OF THE LANGUAGE REFINED BY DISCUSSION(S). COMMISSIONER LYLE SECONDED THE MOTION.

Under discussion, Commissioner Acevedo said he had more to add on the CG zoning, noting that consideration should be given for allowing “Residential Congregate Care Facility Large” under CG zoning. “If placed in proper locations behind commercial – in conjunction with other commercial – it would provide ‘walk around’ spaces fro the seniors, and so adding to CG would be better,” he said. Discussion followed regarding levels of care and preserving commercial land for retail commercial uses, and requirements for a Conditional Use Permit. Subsequently, Commissioner Escobar suggested having the Commission adopt the motion with a footnote that the City Council should consider Commissioner Acevedo’s perspective. [agreed]

THE MOTION PASSED (7 - 0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

Mr. Hansen asked if the action just taken by the Commissioners would go to the City Council for the July 2 meeting? [yes]

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CDD Molloy Previsich provided explanation of City Council action at its last meeting when Council determined that 221 allocations would be awarded, with some designated from downtown to other categories if a ballot measure exempting downtown were to pass. The Council also provided direction regarding the structure of such a ballot measure. Regarding the allotments, she indicated that the Council decided to make 15 allotments available for on-going projects, rather than 10.

4) HISTORICAL RESOURCES ORDINANCE

The City of Morgan Hill is proposing updates to the City's historic resources code (Chapter 18.75 of the Morgan Hill Municipal Code). The intent of the update is to streamline the development review process for the purposes of the California Environmental Quality Act by better defining the process for the identification and review of potential historical resources. The ordinance will be used with the adopted Historic Context Statement to make determinations of significance in the future.

SP Tolentino presented the staff report, noting that at the March 11, 2008 Planning Commission meeting, questions had been identified as to how the proposed changes could impact homeowners and residents of Morgan Hill.

Disclosure: Because he owns and operates a business in the downtown, Commissioner Acevedo expressed an opinion that this subject is not specific to the downtown but an Ordinance for the entire City. Chair Koepp-Baker agreed that the issues were not directly related only to downtown. CDD Molloy Previsich reminded Commissioner Acevedo that it is the responsibility of each Commissioner to determine if there is a conflict of interest; however, this application applies to the City-wide locale, and is not a survey of a particular spot. Therefore, Commissioner Acevedo remained seated for this item.

SP Tolentino continued the staff report by giving an overview of the evaluation process for the Historical Resources Code, discussing with the Commissioners the suggested revisions staff had identified for clarity. She also provided an overview of the public information workshop held on June 3, 2008.

CDD Molloy Previsich said staff continues to get questions and staff has been working to make the issues and requirements more clear. "As we continue to review the matter, I can offer suggestions which will facilitate better acceptance of the Code." She then suggested inserting references to, and expanding the definition of, "character defining features" as applicable in the Ordinance.

Commissioner Davenport asked if the public workshop had yielded much request for change? Chair Koepp-Baker said, "Were there any substantial changes as a result of that meeting?" CDD Molloy Previsich advised that changes to the proposed Code had resulted mostly in deleting reference to exterior architectural features, e.g., kind, color, texture of building materials. She went on to say that these dealt mostly with changes /alterations to 'character defining features' (item 6, page 3: Exhibit A/staff report).

Commissioner Tanda announced he had discussed concerns with CDD Molloy Previsich and SP Tolentino as the Ordinance with many different sections is difficult to follow. Pointing out several instances within the Ordinance where he had identified confusing and/or conflicting language, Commissioner Tanda led lengthy discussion of those imperfections, saying, "The Ordinance as written does not appear clear and concise. It

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isn't made clear to an applicant what they have to go through to avoid having to get a permit if they don't need one. I think the Ordinance could stand another review so it avoids being contradictory. If an item is not Ordinance related, then perhaps staff could produce a brochure for applicants to understand their responsibilities and options."

Commissioner Tanda then told of formulating a flow chart, which he distributed saying, "This is an example of accomplishment of cooperation with applicants." He went on to say that he had asked SP Tolentino to produce a staff-generated flow chart, which was distributed. Commissioner Tanda pointed out that the two flow charts were similar, and both worked to achieve a goal of assisting the public.

Commissioner asked questions of staff regarding:

- ◇ once a structure is determined not significant, will the designation be permanent [updates are required every 5 years] CDD Molloy Previsich explained it would be highly unusual for a resource to go from not significant to significant; maybe 10 years later could make discovery for historical significance
- ◇ historical significance should be captured at original evaluation
- ◇ exempt possibilities from CEQA were explained
- ◇ permit application language indicating 'permit is required unless'
- ◇ CDD would be anticipated to be 'using good common sense and not send an applicant into the Consultant process (concern of applicant dollars)
- ◇ fee schedule analysis and explanation
- ◇ when permit not required

Commissioner Mueller led discussion of future additions to the Historical Resources study, and spoke on the need to ensure the City budgets for on-going study as warranted.

The permit waiver process was explored with considerable discussion. Much emphasis was had regarding the need to lessen potential expense for applicants.

Commissioner Mueller and CDD Molloy Previsich provided clarification regarding requirements and language from CEQA.

Commissioner Tanda reiterated concern that the way the Ordinance is written, clear explanation and direction was not given to the public. Commissioner Mueller responded, "With modifications, including a flow chart, and putting the information on the City's web site for clarification, it will help people with straightforward data, including references. CDD Molloy Previsich commented that the process will become more clear and helpful with a flowchart.

Responding to specific questions from the Commissioners, CDD Molloy Previsich and SP Tolentino addressed issues of:

- permit waivers
- demolition and/or alteration requests
- process described in layman terms / need to reference sections for clarity / explanation for process should be sequential
- alteration different from demolition
- majority of residents with identified buildings will work with staff and

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achieve goal to meet Secretary of Interior's Standards (Standards); non-compliance with Standards will require environmental review

Commissioner Tanda asked for discussion on 'minor and major permit categories', with the following being ascertained:

- } major: {example} building additions
- } minor: {example} adding new windows

Responding to concerns from Commission Tanda that compliance with the code will cost applicants potentially a great deal of money, SP Tolentino said this program will help enhance building projects and reminded that the process is designed to meet the Secretary of Interior standards, which 'does not automatically equate to more time or money'.

Commissioner Tanda continued to press for 'more understandable language and preparation of a simple flow chart' (to see how it all fits together and to use as a pattern for explaining the process to applicants).

Chair Koepp-Baker asked if there were a timeline for having this issue go to the City Council? CDD Molloy Previsich noted staff hoped to have it ready on July 16. "It would be nice to get Codification so we would be able to be more declarative. This Ordinance reflects 'how shall do' information for the public," CDD Molloy Previsich said. She went on to say that with the language clarification at this meeting, the implementation step could be achieved, including production of the flow chart.

Commissioner Mueller said he was comfortable with the modifications as suggested and agreed, but felt that separate monies should be earmarked by the Council for fabrication of a brochure and having the information put on the City's web site to ensure clarification to the public regarding implementation of this Code.

CDD Molloy Previsich advised that money is available, and with work on the new City web site, staff will commence with work on the brochure and see that the web site contains appropriate links.

Responding to a question from Commissioner Tanda, CDD Molloy Previsich gave an overview of CEQA law relating to 'potentially significant historic resource'.

Commissioner Tanda said, "I want to see the Ordinance after the modifications have been completed. It will be important to remove as many people as possible from gray areas (and causing people to go through something that ultimately they might be exempted from). But if we err, it should be on the side of historic value."

CDD Molloy Previsich suggested adopting the proposed Resolution with the modifications identified during discussion, then at the next Commission meeting (July 8, 2008) having the item placed on a consent calendar, with the Commissioners having had the opportunity for review, with comments/suggestions to staff.

Chair Koepp-Baker opened, and then closed, the public hearing as there were none present to address the matter.

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Commissioner Tanda said, "It appears that staff and the Commissioners contemplate a motion for the Resolution. Is that a right thing to do?" CDD Molloy Previsich and Commissioner Mueller said, "Yes, it provides the opportunity to have language in place. Then on July 8th, Commissioners can say 'yes or no' with the matter then going back to the City Council.

Chair Koepp-Baker remarked that it seemed 'basically the commissioners are in consensus to send this issue to the City Council, with the acknowledged changes and recommendations'.

Commissioner Tanda said, "I don't disagree. It just seems ideal to go through the Ordinance and make it easier for a layperson to understand. The current Ordinance does not meet that criterion.

Commissioner Escobar observed, "Commissioner Tanda is not looking to make dramatic changes but asking: let's refine /simplify the Ordinance language for a layperson to use, then follow-up with visual aids to have people assisted in understanding. I do not see substantive changes forthcoming."

NOTING THE FINDINGS AND CONDITIONS CONTAINER THEREIN, COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL TO REPEAL CHAPTER 18.75, CULTURAL RESOURCES PRESERVATION, OF THE MORGAN HILL ZONING CODE AND ADOPT CHAPTER 18.75, HISTORICAL RESOURCES INCLUSIVE OF THE MODIFICATIONS IDENTIFIED DURING DISCUSSION. COMMISSIONER DAVENPORT PROVIDED THE SECOND TO THE MOTION, WHICH PASSED (7 - 0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONERS MUELLER/DAVENPORT MOTIONED TO REQUEST THAT STAFF AGENDAIZE THE ITEM FOR THE JULY 8 2008 CONSENT CALENDAR FOR FINALIZING THE MATTER, AND FURTHER TO DIRECT STAFF TO PREPARE AN INFORMATION BROCHURE CONTAINING A FLOWCHART AND POST THE DATA TO THE CITY'S WEB SITE.

Under discussion of the motion, Commissioner Tanda reiterated concerns of returning data to the Commission to assist the public with ease of understanding.

THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

ANNOUNCEMENTS: The City's web page is being restructured.

Commissioner Tanda spoke regarding how the RDCS system works in Morgan Hill. "It is difficult to understand: we know things are made available to the public to assist them on how to get action, but the process is not clear," he said. CDD Molloy Previsich described meetings held with staff for all developers as staff explained the process for clearly submitting RDCS applications, and any changes in the criteria for points. CDD Molloy

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Previsich said, "Commissioner Tanta's point is well taken. We should try to go beyond the 'technical stuff' for the RDCS program and work on moiré user-friendly web content and brochures."

The City Council adopted the 'green theme' for building.

The City Council considered RDCS allotment and made modification: retain the one- year competition, but with 221 units available, 75 of the allotments for on-going projects taken from the downtown set-aside. CDD Molloy Previsich explained that if the November 'downtown ballot' is successful, then 40 allotments will be redistributed from downtown.

CDD Molloy Previsich advised that staff has been directed to provide structure for the ballot measure, including a Resolution with the Ordinance back to City Council at their July 23, 2008 meeting.

ADJOURNMENT: Noting that there was no further business to be considered by the Commissioners at this meeting, Chair Koepp-Baker adjourned the meeting at 10:19 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk